

Notice of Allowability

Application No.

09/582,522

Examiner

Gina C. Yu

Applicant(s)

MAOR ET AL.

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Response, Terminal Disclaimer, & IDS filed on 3/14/2005.
2. ☒ The allowed claim(s) is/are 1, 3-6, 10, 12, 13, 15-19, 21-24, which are renumbered to claims 1-17.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 3/14/2005
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

S. O. O.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Claims 1, 3-6, 10, 12, 13, 15-19, 21-24, which are now renumbered to claims 1-17, are allowed.

The 132 declaration filed on September 28, 2004 shows that nonionic solubilizers effectively produce transparency in compositions comprising Dead Sea salt concentration from 30% to the point of saturation while ionic solubilizers precipitate. See declaration, Table 1. (Actual Dead Sea water has 32 % w/v of mineral concentration, see spec. p. 2). The declaration further shows that 5 % w/w of the nonionic solubilizers still produce transparency in compositions comprising up to 0.8 % w/w of vitamin E acetate. Thus, it is viewed that the use of nonionic solubilizers to produce a clear gel composition in a such high salt concentration which also comprises a hydrophobic agent is viewed unexpected and surprising.

The claimed invention is found nonobvious in view of the cited references. Kyotaro (JP08113530) teaches a cosmetic composition comprising more than 20 % of Dead Sea water. However, the reference fails to teach making a clear gel containing Dead Sea water, nonionic solubilizer, and a hydrophobic agent as claimed in this case. While secondary reference Biener (US 4943432) teaches making a clear gel with synthetic mixture of mineral salts that are present in Dead Sea water the reference teaches away from using the actual water from Dead Sea, citing inconvenience and impurity of the water. Thus examiner finds that the combined teachings of the references would not have motivated a skilled artisan to make the claimed clear gel using 30-80 % by weight of actual Dead Sea water.

Obvious double patenting rejection made over U.S. Pat. No. 6,248,340 is withdrawn view of terminal disclaimer filed on March 14, 2005.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 571-272-0635.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gina Yu
Patent Examiner


SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER